IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26/03/2004

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THE HON'BLE MR.JUSTICE P.D.DINAKARAN

W.P.No.15793 of 2002

Sister J.Vanaselvi .. Petitioner

-Vs-

1. The District Educational Officer
Koilpatti
Thuthukkudi District.

2. The Correspondent
St.Louisa Girls High Schools
Kazhugumalai
Thuthukkudi District. .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issue of a writ of Certiorarified Mandamus, as stated therein.

For Petitioner : Mr.C.Selvaraju

For Respondents : Mr.Muthukumarasamy
Addl. Advocate General
for 2nd respondent
No appearance
for 1st respondent

:ORDER

When a disciplinary action was initiated against the petitioner, who was working as Headmaster under the second respondent/School, by issuance of charge memos dated 8.1.2002, 22.1.2002 and 13.3.2002, the petitioner had preferred this writ petition seeking a writ of Certiorarified Mandamus to call for the records pertaining to the Charge Memos dated 8.1.2002, 22.1.2002 and 13.3.2002, to quash the same and to direct the respondents to confer all the consequential benefits to her, on the main ground that with reference to the same charges a criminal case was also lodged against the petitioner and the trial on the said criminal charges is still pending.

2. Mr.Muthukumarasamy, learned Additional Advocate General appearing on behalf of the second respondent/School makes it clear that the second respondent/School propose to issue a revised charge memo deleting the charges which are the subject matter in the criminal case.

3. It is well settled in law that, in the case of charges framed in a disciplinary enquiry, the court can interfere only if on the charges framed (read with imputation or particulars of the charges, if any) no misconduct or other irregularity alleged can be said to have been made out or the charges framed are contrary to any law. At this stage, the Court has no jurisdiction to go into the correctness or truth of the charges. The Court cannot take over the functions of the disciplinary authority. The truth or otherwise of the charges is a matter for the disciplinary authority to go into. Indeed, even after the conclusion of the disciplinary proceedings, if the matter comes to court or tribunal, they have no jurisdiction to look into the truth of the charges or into the correctness of the findings recorded by the disciplinary authority or the appellate authority as the case may be. The function of the court/tribunal is one of judicial review. Judicial review, it is trite, is not directed against the decision but is confined to the decision-making process, vide Union of India v. Upendra Singh, (1994) 3 SCC 357.

4. However, in the instant case, the second respondent/School propose to withdraw the impugned charge memos dated 8.1.2002, 22.1.2002 and 13.3.2002 by deleting the charges which are the subject matter in the criminal case pending against the petitioner, and issue a revised charge memo before proceeding further in the impugned disciplinary action. Therefore, except to record the same, no further orders are required in this writ petition, making it clear that as and when the second respondent/School issues a revised charge memo, the petitioner shall be given a fair and reasonable opportunity to disprove the charges, and thereafter, appropriate orders shall be passed in compliance of the principles of natural justice and in accordance with law.

This writ petition is disposed of accordingly. No costs.

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To:

1. The District Educational Officer
Koilpatti
Thuthukkudi District.